

# THE COURT OF APPEALS' DECISION.

The Record of the Legislature is Conclusive of the Gubernatorial Controversy.

IT IS NOW UP TO THE SUPREME COURT OF THE LAND.

Frankfort, Ky., April 9.—The Kentucky Court of Appeals Saturday, six of the seven judges concurring in the decision, affirmed the judgment of Judge Field that Beckham is the legal governor of Kentucky.

The opinion was handed down in the presence of all the members of the court. Three opinions were presented for filing. The majority opinion was presented by Judge Hobson and concurred in by Judges Hazelrigg, Payntner and White. The second opinion agreeing with the conclusions reached, was presented by Judges Burnham and Guffy. The third opinion, dissenting from the others, was by Judge DuRelle.

Saturday W. S. Taylor's attorneys asked the court for a writ of error to the Supreme Court of the United States, and it was granted.

By agreement all parties are to assist in getting a speedy hearing at Washington. A motion will be made by the attorneys for the Democrats to dismiss the writ on the ground that that the Federal court has no jurisdiction, and the argument will be made on this motion.

## THE COURT'S CONCLUSIONS.

We are clearly of the opinion that the State Constitution was intended to maintain the absolute independence of the legislative branch of the government; that the power claimed by the appellant, Taylor, is in conflict with both the letter and spirit of the instrument, and that his attempt to adjourn the Legislature from January 31 to February 6 was void, and did not interfere with the right of the Legislature to proceed with its session at Frankfort.

We have no more right to supervise the decision of the General Assembly in determining the result of this election than we have to supervise the action of the Governor in calling a special session of the Legislature or in pardoning a criminal, or the action of the Legislature in contracting debts, or determining upon the election of its members, or doing any other act authorized by the constitution.

We are unable to see how this case can be distinguished from any other legislative action taken in a matter over which the constitution has given the legislature exclusive jurisdiction, and are therefore of the opinion that the courts are without jurisdiction to go behind the record made by the Legislature under the Constitution. Such a record seems to us entitled to every presumption in its favor that the records of this court, kept under its supervision, would be entitled to receive at the hands of the Legislature in a matter before it.

The office of Governor being created by the Constitution of this State, the instrument creating it might properly provide how the officer was to be elected, and how the result of the election should be determined. The provisions of the Constitution on this subject do not abridge the privileges or immunities of citizens of the United States. Such an office is not property, and

in determining merely the result of the election, according to its own laws, the State deprives no one of life, liberty or property. In creating this office the State had a right to determine the result of the election, and it had a right to provide such a mode of procedure as it saw fit. It is wholly a matter of State policy. The people of the State might by an amendment to their Constitution abolish the office altogether.

Whether the Assembly was right or not in its decision, it is not our province to determine. But a much more important question is involved in the case, which is the integrity of our form of government, as founded by our forefathers. If the action of the Legislature may be disregarded by the courts, then it is no longer an equal and independent branch of the government within its constitutional jurisdiction, but the courts become the final depository of the supreme power of the State. Judicial tyranny is no less tyranny because couched in the forms of law.

For these reasons we are of the opinion that the courts of this State are without authority to enter into the inquiry sought in this case, and that the journals of the General Assembly are conclusive of the controversy. The judgment of the lower court being in accordance with these views, is, therefore, affirmed.

### THE OPINION OF BURNHAM AND GUFFY.

I have been led, with some reluctance, to the conclusion, and not without some misgivings as to its correctness, that there is no power in the courts of the State to review the findings of the General Assembly in a contested election for the offices of Governor and Lieutenant Governor as shown by its only authenticated records.

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Upon my sacred honor I promise to be present during the Normal Term, conducted by Dr. A. L. Peterman and Prof. Charles Evans, at Marion, Kentucky, beginning May 13, 1900, and do here subscribe

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### REPORTER.

The Bishop Did Not Think St. Peter Could Keep Him Out.

"The brightest reporter I ever knew," said a newspaper man, "was Billy Gaylor, who died at Hot Springs in 1895. He was a most persistent fellow after an item, and that reminds me of a little story about the last incident of his career. He had been assigned by a certain Chicago daily to interview an eminent bishop about a schism in the Church. The bishop didn't want to talk and wouldn't see him, but Gaylor bribed a servant to let him into the hall, and he waylaid the dignitary as he was coming through. He was ordered out for his pains, but next day he penetrated the house again on some pretext or other, and was again fired. He repeated the exploit three or four times with similar results, and at last the bishop coming home late, at night, found Billy sitting in his study reading the Bible. Nobody could explain how he got in, but the prelate winked and told him what he wanted to know, on condition that he would go away and stay away. "Shortly afterward poor Gaylor got galloping consumption and died, and, happening to meet the bishop at a church conference, I told him that the young man who had once so molested him would never do it again. "Let us hope that he is in heaven," said a clergyman standing by. "No doubt he is," he replied gently. "I don't think they could keep him out."

### Among the Wise.

First Young Woman—"Let's see; who wrote 'Pickwick Papers'?" Second Ditto—"Dickens." First—"Of course. I couldn't for the moment think of his name." Second—"He wrote the author of 'Penny Dreadful' and 'Under Two Flags,' you know." First—"O, yes, I know that."—Boston Transcript.

### Literary by Heredity.

"I don't see," said Mr. Mulberry, "why you women have that Mrs. Watkins in your literary club. The rest of you are bright enough, but she's dull as dull as can be." "It's this way," answered Mrs. Mulberry: "Mrs. Watkins's great-grandmother's half-sister's second cousin by marriage could trace her descent from Chaucer. So you see, after all, with such literary claims, we couldn't well leave Mrs. Watkins out."—Harper's Bazar.

### Man's Tears.

The grand dame was visibly affected. "If I give you five cents will you get intoxicated with it?" she asked feelingly. The unfortunate stared as if stung. "No, no!" he protested wildly. "I'll take it home to my wife, and she will probably give a cotton with it!" There were tears in his voice, and a man's tears, you know, are impressive.—Detroit Journal.

### Opinions Useless.

"What is your opinion on this new national question?" said the inquirer. "My boy," said Senator Sorghum, dolefully, "that's a difficulty under which our statesmen have to labor. By the time I get through hustling for votes and watching the schemes of the opposition, I don't have a minute left for forming opinions about anything."—Washington Star.

### Matter of Spelling.

Magistrate—"How comes it, sergeant, that you say in your oral testimony that the prisoner stole an encyclopedia and in the written report of the case you said he stole a cook book?" Sergeant of Police—"Well, you see, Judge, it's easier to spell cook book than encyclopedia."—Heitere Welt.

### Advise Grats.

Mr. Buyer—"Mr. Green, there seems to be something serious the matter with the horse I bought of you yesterday. He coughs and wheezes distressingly, and I think perhaps he is windbroken. What would you advise me to do?" Jay Green (promptly)—"Sell him as quickly as you can. I did."—Tit-Bits.

### Beneficial Exercise.

Mr. Pinkie (10 p. m.)—"My dear, the doctor says a brisk walk before going to bed will insure sleep to insomnia sufferers like myself."

Mrs. Pinkie—"Well, my dear, I will clear the room so you can walk. Please carry the baby with you."—New York Weekly.

### A Puzzler.

"John has five oranges, James gave him eleven, and he gives Peter seven, how many has he left?"

Before this problem the class recoiled.

"Please, sir," said a young lad, "we always does our sums in apples."—Tit-Bits.

### Natural Effect.

First Goat—Oh, Nanette. Come over on the next lot. There's such a pile of old magazines there!

Second Goat—No, William. Ever since I ate that last poem I've been so dizzy my feet get all mixed up.—New York Press.

### Only Three.

Friend—"The gossips have formulated a regular indictment against your character. They say you were a terrible flirt while abroad. Do you plead guilty?"

American Girl—"Y-e-s; to three Counts."—New York Weekly.

### Meant as a Compliment.

"Don't you think, Mrs. Spitzly, that this hat is a little too gay for a matronly woman like me?" "Not at all, my dear. You know that you're years younger than you look."—Tit-Bits.

### Competition.

"Maud says she is madly in love with her new wheel." "Huh! Another case where man is displaced by machinery."—Household Words.

### One of Fashion's Prills.

"I hear they are trimming the bottom of skirts with fur." "Yes; that's another fashionable fur."—Philadelphia Bulletin.

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3 Scissors, 4 1/2 inches.	25 Revolver, automatic, double action, 32 or 38 caliber.
4 Child's Bat, Knife, Fork and Spoon.	26 Tool Set, not playthings, but real tools.
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6 French Briar Wood Pipe.	28 Remington Rifle No. 4, 2100 ft. cal., 300 yds.
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